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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,519	02/28/2005	Kyoko Yokoi	TIP-05-1007	1423

35811 7590 06/18/2008  
IP GROUP OF DLA PIPER US LLP  
ONE LIBERTY PLACE  
1650 MARKET ST, SUITE 4900  
PHILADELPHIA, PA 19103

EXAMINER
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CHRISS, JENNIFER A

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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06/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,519	<b>Applicant(s)</b> YOKOI ET AL.	
	<b>Examiner</b> JENNIFER A. CHRISS	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/7/08</u> .                                                  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's Amendments and Accompanying Remarks filed on April 14, 2008 has been entered and carefully considered. Claims 5 and 7 are amended, claim 9 is cancelled and claims 5 – 8 are pending. In view of Applicant's amendments to claims 5 and 7 requiring that the polyurethane *contains at least one each* of yellow, red and blue pigments selected from a particular claimed list, the Examiner withdraws all previously set forth rejections as detailed in the Office Action dated September 17, 2007. It should be noted that Gandhi et al. does not teach the particular claimed pigments. The invention as currently claimed is not found to be patentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

3. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima (US 4,046,504) in view of Streicher et al. (US 4,983,185).

Fukushima is directed to a suede sheet material having desirable tactile properties and good coloring (Abstract).

As to claims 1 and 7, Fukushima teaches a suede sheet material comprising a fibrous mat and a binder (column 2, lines 50 - 60). Fukushima teaches that the fibrous mat is impregnated with a binder containing an elastomer and then the fibers are raised on the surface of the resulting sheet by buffing or brushing to create the napped surface (column 3, lines 65 – 69 and column 4, lines 1 – 5). Fukushima indicates that the elastomer is preferably a polyurethane elastomer (column 5, lines 64 - 69 and column 6, lines 1 - 15). Fukushima note that the fibers of the suede sheet have a size of less than 0.1 denier (0.11 dtex) (column 4, lines 30 – 40). Fukushima indicates that the polyurethane may also additionally contain a colorant, etc. (column 6, lines 10 – 15). As noted in both claims 1 and 9 of Fukushima, the suede sheet is made by forming a fibrous mat, impregnating the mat with a binder composed of an elastomer, treating the impregnated mat to form a napped surface and then dyeing the napped sheet material (columns 11 – 12). In the Examples, Fukushima discusses various dye blends to create suede sheet materials with various colors and end effects (columns 6 – 10).

Fukushima teaches the claimed invention above but fails to specifically teach that the polyurethane contains at least one each of yellow, red and blue pigments selected from the group consisting of diketopyrrolopyrrole, anthraquinone, perylene, perynone, quinacridone, azo, polyazo, imidazolone, phthalocyanine, isoindoline, indigo, thioindigo, azomethine, azomethine-azo, dioxazine, indanthrone, flavanthrone and pyranthrone.

Streicher et al. is directed to dyeing of leather with pigments (Title). Streicher et al. note that the pigments create a leather with good lightfastness (column 1, lines 10 – 20). Streicher et al. teach that the leather can be treated with individual pigments but also with mixtures of pigments. Preferably, the leather is dyed with a mixture of yellow, red and blue pigments, which gives rise to brown shades (column 5, lines 64 - 69). Streicher et al. note that the process makes it possible to obtain leather which has excellent levelness, depth of shade, brilliance and high lightfastness, wetfastness and migration fastness properties (column 6, lines 1 - 5). Streicher et al. note that the pigments may be selected from various pigments such as mono-azo pigments, anthraquinone pigments, thioindigo pigments, azomethine-azo pigments, quinacridone pigments and dioxazine pigments (column 2, lines 60 - 69 and column 3, lines 1 - 5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a pigment blend of yellow, red and blue pigments selected from mono-azo pigments, anthraquinone pigments, thioindigo pigments, azomethine-azo pigments, quinacridone pigments and dioxazine pigments motivated by the desire to create a suede sheet material having a natural brown color.

Fukushima in view of Streicher et al. teach the claimed invention above but fails to teach that the infrared reflectance is 850 nm at 60% or more, the surface temperature during light irradiation is 105 C or lower, light fastness is class 3 or better, the discoloration ratio after reduction cleaning is 20% or less and the chroma is 10 or less. It is reasonable to presume that the above discussed properties are inherent to

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Fukushima in view of Streicher et al. Support for said presumption is found in the use of like materials (i.e. a sanded suede sheet containing fibers of a similar linear density range impregnated with a polyurethane binder which is colored with red, blue and yellow pigments selected from the pigments of claims 5 and 7) which would result in the claimed properties. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed properties would obviously have been present once the Fukushima in view of Streicher et al. product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977).

4. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima (US 4,046,504) in view of Streicher et al. (US 4,983,185) as applied above, and further in view of Pedain et al. (US 3,867,350).

Fukushima in view of Streicher et al. teach the claimed invention above but is silent to the use of a polycarbonate-based polyurethane.

Pedain et al. relates to polyurethane urea elastomers based on polycarbonate macrodiols which have the advantage of being less of a physiological hazard, that are more resistant to common solvents and require less emulsifiers and dispersion aids (Title and Abstract). The reference teaches the use of the resin for the production of coatings applied to substrates such as leather and artificial leather (column 6, lines 20-31).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the resin of Fukushima in view of Streicher et al.

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and provide it with the polycarbonate based polyurethane of Pedain et al. with the motivation of using an elastomer that is less of a physiological hazard, that is more resistant to common solvents and require less emulsifiers and dispersion aid as disclosed by Pedain et al. (Abstract).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 5 – 8 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER A. CHRISS whose telephone number is (571)272-7783. The examiner can normally be reached on Monday - Friday, 8:30 a.m. - 6 p.m., first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer A Chriss/  
Examiner, Art Unit 1794

/J. A. C./  
Examiner, Art Unit 1794